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ORDER OF MAY 8, 1937, GOVERNING SET-OFFS AGAINST AGRICULTURAL
ADJUSTMENT ADMINISTRATION PAYMENTS (AS REVISED OCTOBER 20, 1943).

Pursuant to the authority vested in the Secretary of Agriculture by the item entitled "Payments for Agricultural Adjustment" contained in the Supplemental Appropriation Act, fiscal year 1936, approved February 11, 1936, Public No. 440, 74th Congress, 49 Stat. 1116, as amended; by sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, approved February 29, 1936, Public No. 461, 74th Congress, 49 Stat. 1148, as amended; by the item entitled "Price Adjustment Payment to Cotton Producers" contained in the Third Deficiency Appropriation Act, fiscal year 1937, approved August 25, 1937, Public No. 354, 75th Congress, 50 Stat. 762, as amended and modified; by Title III of the Sugar Act of 1937, approved September 1, 1937, Public No. 414, 75th Congress, 50 Stat. 903; by sections 303 and 372(c) of Title III and by Title IV of the Agricultural Adjustment Act of 1938, approved February 16, 1938, Public No. 430, 75th Congress, 52 Stat. 31, as amended; by the Price Adjustment Act of 1938, approved June 21, 1938, Title V of Public No. 122, 75th Congress, 52 Stat. 819, and by subsequent statutes authorizing payments to farmers and pursuant to the authority vested in the War Food Administrator by Executive Order No. 9322 as amended by Executive Order No. 9334, I hereby declare the following to be the conditions under which certain debts of persons owing to the Government of the United States on account of indebtedness due and unpaid to any department, establishment, or independent agency of the Government, any corporation all the stock of which is owned by the United States, or any bureau, administration or corporation in the Department of Agriculture, will be set off against any payments which may be payable to such persons under any of said statutes.

This revised order is a restatement of the Revised Order Governing Set-offs entered by the Secretary of Agriculture May 8, 1937 (as revised October 20, 1941), including classification (b) as amended by the War Food Administrator on June 25, 1943, and including a new classification applicable to the Regional Agricultural Credit Corporation, Washington, D. C., namely, classification (h).

In order to protect the interests of the United States and at the same time to effectuate the purposes of the aforesaid Acts, set-offs shall be made in, but limited to, cases described in the following classifications to which the following provisos are applicable as indicated in the respective classification, provided, however, that the chief of the creditor agency within the Department, or his authorized representative, may waive or subordinate the right of the creditor agency to a set-off of all or a part of the indebtedness if he deems such action in the interests of the program administered by such agency.

- (a) The debtor has committed a fraud against the United States or there is evidence establishing material misrepresentation of fact, in securing a loan from the United States, without which fraudulent act or material misrepresentation the loan would not have been made, or would have otherwise been made in a smaller amount. (Provisos 1 through 6.)
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- (b) A person is indebted to the Federal Crop Insurance Corporation for any unpaid premium payable to it under the terms of a crop insurance contract; or on account of his having received an indemnity payment in excess of that finally determined to be due. (Provisos 1 through 6.)
- (c) A person who is indebted to the Farm Security Administration has failed to use the borrowed funds for the purposes specified in the written loan agreement; or has, in bad faith, disposed of property covered by a mortgage, deed of trust, or lien instrument given to secure the loan. (Provisos 1 through 6.)
- (d) A person is indebted to the Agricultural Adjustment Agency. (Proviso 3.)
- (e) A person is indebted to the Commodity Credit Corporation in connection with a loan or purchase agreement with respect to which there has been failure to comply with the terms. (Provisos 1 through 6.)
- (f) Any account or renewal thereof arising from the loan operations of the Farm Security or Farm Credit Administrations (1) becomes finally due on or after July 1, 1939, and (2) has not been finally settled by such creditor agency within a period of two years thereof, and, at the expiration of such two-year period, (a) the debtor is not a client of and does not have a current loan from such creditor agency (except for collection purposes), and (b) such creditor agency considers a request for set-off in such case to be in the interest of its program. (Provisos 1 through 6.)
- (g) The United States has secured a judgment against the debtor which remains unsatisfied. (Provisos 1 through 6.)
- (h) A person is indebted to the Regional Agricultural Credit Corporation of Washington, D. C., on a limited liability advance made in furtherance of food production, and has failed to pay to the corporation, pursuant to written agreement the amount paid or allowed to him as Section 32 payments under the 1943 Agricultural Conservation Program; provided, however, that any such set-off shall be limited to the amount paid or allowed as aforesaid. (Provisos 1 through 4 and 6.)

Provided, however, that:

- (1) Request for set-off within the above classifications shall be on Form AAA-402, "Request for Set-off against Payments under Programs Administered by the Agricultural Adjustment Agency," and all the information required by such form must be included. Section II, "Certification," must be signed by an authorized representative of the department, establishment, or independent agency of the Government requesting the set-off. Requests for set-offs by agencies of the Government not within the Department of Agriculture coming within classification (g) shall be submitted on Form AAA-396, "Request and Certification to the Agricultural Adjustment Agency for Allowance of Set-off Pursuant to Classification (g) of the Order Governing Set-offs Revised by the Secretary of Agriculture August 18, 1939." Form AAA-396 may also be used by bureaus within the Department to file requests for set-offs coming within classification (g).
- (2) The amount to be set off shall not exceed the principal sum(s) owed by the debtor and the interest charges computed to the date of the request on account of which set-off is allowed.
- (3) Whenever a set-off is to be effected by means of a direct settlement, the amount of the indebtedness, insofar as this revised order is concerned, shall be reduced at the time the voucher is transmitted to the Claims Division of the General Accounting Office by the amount of payment administratively certified subject to deduction.
- (4) In no case shall a payment be withheld for the purpose of making a set-off subsequent to the initial administrative certification for payment of the voucher.
- (5) In no case shall any department, independent agency, bureau, or administration, other than the Agricultural Adjustment Agency, or corporation as described in the first paragraph communicate with any officer or employee of any County Agricultural Conservation Association, or other association, or committee of producers with a view to securing the set-off, or with a view to the withholding of any check issued pursuant to any of the above-cited acts which may be in, or come into, his or their hands awaiting delivery to the payee; provided, however, that with respect to cases coming within classification (g) inquiry may be made at the office of the County Agricultural Conservation Association as to whether

the judgment-debtor has filed with respect to a particular crop year an intention to participate in one or more of the programs administered by the Agricultural Adjustment Agency.

- (6) Forms AAA-396 and AAA-402 executed by bureaus, administrations, or corporations, within the Department of Agriculture, shall be filed with the applicable State offices of the Agricultural Adjustment Agency. Forms AAA-396 and AAA-402 executed by agencies of the Government not within the Department of Agriculture shall be filed with the Chief of the Agricultural Adjustment Agency, or, with the prior approval of the Chief, may be filed with the applicable State office.

Irrespective of the time of recordation on the Register of Indebtedness in the office of the County Agricultural Conservation Association, any claim to the right of set-off made by the Department of Agriculture shall have priority over any claim to such right made by any other department, independent agency, or establishment of the Government, and claims within the Department of Agriculture shall be satisfied in the following order of priority, namely: Agricultural Adjustment Agency, Commodity Credit Corporation, Federal Crop Insurance Corporation, Farm Security Administration, and Farm Credit Administration.

The head of any such department, independent agency, or establishment of the Government, including any administration or bureau of the Department of Agriculture, desiring that set-offs be made in any cases coming within the terms of this revised order, shall give written notice to that effect to the Chief of the Agricultural Adjustment Agency in order that the necessary procedure may be established and approved by him. The Chief of the Agricultural Adjustment Agency is hereby authorized to revise such existing forms and to issue such new forms and procedures as may be required from time to time for the proper administration of this order.

Done at Washington, D. C.,
this 20th of October, 1943

/s/ Wilson Cowen
Assistant War Food Administrator